

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
10

11 JACK BENJAMIN HESSIANI,

12 Petitioner,

13 v.

14 WARDEN,

15 Respondent.
16
17
18
19
20
21
22
23
24
25
26
27
28

Case No. 5:24-cv-01034-JWH-SSC

**ORDER ACCEPTING FINDINGS,
CONCLUSIONS, AND
RECOMMENDATIONS OF
UNITED STATES MAGISTRATE
JUDGE**

1 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, all of
2 the records herein, and the Report and Recommendation of United States
3 Magistrate Judge, and Petitioner's objections to the Report and
4 Recommendation.¹ The Court has engaged in a de novo review of those
5 portions of the R&R to which Petitioner has objected.

6 The R&R recommends the grant of Respondent's motion to dismiss and
7 the dismissal of this action with prejudice. Petitioner's objections do not merit
8 any change to the R&R's findings or recommendations.

9 Petitioner objects that his federal sentence was miscalculated and that he
10 is entitled to a credit of eight months and 29 days.² The Court agrees with the
11 Report that Petitioner is not entitled to an additional eight months and 29 days
12 of custody credit.³ By the time that Petitioner was sentenced in the California
13 case, he had already served eight months and 29 days of his Nevada sentence.⁴
14 Although the California sentence was ordered to run concurrently with the
15 Nevada sentence, "the concurrency could only be applied *prospectively* from the
16 date of the California sentence."⁵ Moreover, the time that Petitioner had served
17 on his earlier Nevada sentence did not count as presentence credits toward his
18 California sentence.⁶ Petitioner's objections merely repeat his claim without
19 addressing the relevant authorities or the R&R's reasoning.

20 Accordingly, the Court hereby **ORDERS** as follows:

21
22 ¹ Report and Recommendation (the "R&R") [ECF No. 20]; Obj. to R&R
(the "Objection") [ECF No. 30].


23 ² Objection 1-3.

24 ³ R&R 6:14-20.

25 ⁴ *Id.* at 9:6-9.

26 ⁵ *Id.* at 9:9-24 (citing *Schleining v. Thomas*, 642 F.3d 1242, 1248 n.8 (9th Cir.
27 2011), and similar district court cases).

28 ⁶ *Id.* at 8:5-27 & 10:3-14 (citing authorities).



John W. Holcomb
UNITED STATES DISTRICT JUDGE

-3-